

Congress of the United States
Washington, DC 20515

May 25, 2006

Senator Arlen Specter
Chairman
Senate Judiciary Committee
U.S. Senate
Washington, DC 20510

Senator Pat Leahy
Ranking Member
Senate Judiciary Committee
U.S. Senate
Washington, DC 20510

Dear ~~Chairman Specter~~ ^{*Arlen*} and Ranking Member ~~Leahy~~ ^{*Pat*}:

In light of the Senate Judiciary's potential action on the NSA domestic surveillance program, we urge you to consider introducing a Senate version of HR 5371, the Lawful Intelligence and Surveillance of Terrorists in an Emergency by NSA (LISTEN Act).

Both of us have reviewed carefully existing law and authorities. One of us has also received briefings on how the Foreign Intelligence Surveillance Act (FISA) works at DOJ and NSA and the operational details of the President's domestic surveillance program. We have concluded that all electronic surveillance conducted in the United States can -- and must -- be conducted in accordance with FISA, or the applicable criminal law.

HR 5371 reflects a prudent approach that will preserve our carefully crafted legislative framework and the requirements of the US Constitution. The bill:


- Clarifies that the Authorization to Use Military Force did not constitute authority to engage in electronic surveillance outside of FISA;
- Reiterates all surveillance in the United States must be conducted in accordance with the Fourth Amendment to the Constitution, and title I of the Foreign Intelligence Surveillance Act or Title 18;
- Invites the President to report to Congress on how to streamline and expedite the FISA process; and
- Authorizes the appropriation of additional funds for FISA processing.

We remain concerned that other proposals, including the most recent proposals, would amend FISA without any showing by the Administration that these changes are necessary to accomplish the objectives of the NSA surveillance program. Our concern is shared with others, including the American Bar Association which cautioned against amending the law unless it is necessary and appropriate.¹


¹ See letter from ABA president Michael S. Greco dated May 23, 2006.

HR 5371 has gained dozens of co-sponsors and the endorsement of the American Civil Liberties Union and other leading organizations. We urge your serious consideration of the bill in your deliberations.

Sincerely,



Jane Harman
Ranking Member
House Intelligence Committee



John Conyers
Ranking Member
House Judiciary Committee

CC: Chairman Hoekstra
Chairman Sensenbrenner
Chairman Roberts
Vice Chairman Rockefeller
Senate Judiciary Committee Members
Senate Select Committee on Intelligence Members